

July 29, 2005

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Dear Dr. Barrett:

We have reviewed your revised Program Improvement Plan (Plan) received on July 14, 2005. We appreciate your and your staff's efforts to draft a revised and improved Plan, and we believe the Plan meets the requirements of the heightened oversight process. To further assist in understanding the status of specific activities, we request that you or your staff be prepared to discuss the following questions on the revised Plan during the next heightened oversight call. We recognize the questions include the need for specific detail on the status of actions taken to address specific recommendations, but believe such detail will help identify those actions that have been completed by the program. Staff from the U.S. Nuclear Regulatory Commission (NRC), Region IV office, has scheduled a heightened oversight call with your staff for August 2, 2005.

*Recommendation 1:* The review team recommended that the State ensure that adequate resources, both funding and staffing, be devoted to the radiation control program.

Questions: What is the current status of filling vacant positions? How many positions are to be filled? How many positions have been filled to date? Are all the positions in the radioactive material program?

*Recommendation 2:* The review team recommended that the Branch enhance its ability to account for the whereabouts and security of licensed materials known to have existed under a license.

Questions: The Plan states that three licensees are still unaccounted for as of July 14, 2005. This represents three out of how many originally unaccounted for at the time of the Integrated Materials Performance Evaluation Program (IMPEP) review? What is the current status of those three licensees and your efforts to locate them?

*Recommendation 3:* The 2004 IMPEP review team recommended that the Branch implement procedures to ensure inspection findings are issued to licensees within 30 days of completion of routine inspections.

Questions: The Plan states that the procedure has been implemented. Is the procedure working? What is the current status of timeliness of issuance of reports (i.e., how many going out past 30 days)?

*Recommendation 5.* The 2004 IMPEP review team recommended that the Branch, in coordination with the Idaho National Engineering and Environmental Laboratory, complete and close all reportable incidents in the National Material Events Database (NMED).

Questions: The Plan states that 90% of opened incidents have been closed. What is the status of the remaining 10%? Are there any new NMED reports not closed?

*Recommendation 7.* The 2004 IMPEP review team recommended that the Branch establish and implement a system to track incident and allegation investigations to ensure timeliness, proper documentation, appropriate follow up and closure.

Question: What is the current status of the procedures and database?

*Recommendation 8.* The 2004 IMPEP review team recommended that the Branch develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

Questions/Comments: NRC staff believes that the adoption of regulations will be the most difficult problem the California program faces to complete the heightened oversight process. Most of the overdue regulations appear to be at the earliest stages of a long, almost 2-year process. With the complexity and slowness of the State's rulemaking process, NRC staff requests that the California staff pursue methods to shorten the time required to adopt compatible rules. In addition, NRC staff requests that the status of each rule package be discussed on the next call so an exact status can be determined and any impediments to the process can be identified.

*Recommendation 9.* The 2004 IMPEP review team recommended that the Branch formally establish and implement (1) a process to notify the Sealed Source and Device (SS&D) evaluation program of all defects and incidents involving California administered sheets; and (2) a procedure for the SS&D evaluation program to investigate reports of defects and incidents for root cause and generic implications for possible subsequent reevaluation of SS&D sheets.

Question: What is the status of procedures and, if implemented, is the procedure working?

I appreciate your cooperation with the NRC Staff and the effort to revise your Program Improvement Plan, and I also wish to acknowledge your continued support for the Radiation Control Program and the commitment to excellence in program administration demonstrated by your staff. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

/RA/ **Kathleen N. Schneider Acting for**  
Paul H. Lohaus, Director  
Office of State and Tribal Programs

L. Barrett

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